

Personnel Files

1013.1 PURPOSE AND SCOPE

This policy governs the maintenance, retention and access to personnel files.

1013.2 POLICY

It is the policy of the Department to maintain consistent employment records and preserve the confidentiality of personnel information contained in personnel files pursuant to state law (Wis. Stat. § 19.36(10)).

1013.3 PERSONNEL FILES DEFINED

Definitions related to this policy include:

Personnel file - Any file, including a department, Division, supervisor, training, separately maintained Internal Affairs or medical file, containing information about an employee and maintained because of the employer-employee relationship, including a file relating to the performance or merit of an employee.

1013.4 SECURITY AND MAINTENANCE OF PERSONNEL FILES

Access to personnel files shall be restricted as follows:

- (a) Only the Chief of Police or the authorized designee may access personnel files.
- (b) Personnel files shall be maintained in a secured location, locked either in a cabinet or access-controlled room.
- (c) If personnel files are maintained in an electronic format, adequate password protection shall be employed.

1013.4.1 INTERNAL INVESTIGATION FILE

The Internal Investigation file shall be maintained under the exclusive control of the office of the Chief of Police. Access to these files may only be granted by the Chief of Police or the lieutenant. These files shall contain the complete investigation of all formal complaints of employee misconduct regardless of disposition.

1013.4.2 TRAINING FILES

An individual training file shall be maintained by the Chief of Police for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) It shall be the responsibility of the involved employee to provide the Chief of Police or immediate supervisor with timely evidence of completed training/education when the records are required by law or the Department.

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- (b) The Chief of Police or supervisor shall ensure that such training records are placed in the employee's training file.

The Chief of Police is responsible for the creation, filing and storage of all training records in compliance with state data requirements and Law Enforcement Standards Board (LESB) standards. Training records shall be retained in compliance with the current records retention schedule. The Chief of Police is responsible for completing and submitting the annual agency roster verification to LESB Training and Standards Bureau (TSB).

1013.4.3 MEDICAL FILE

A confidential medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history. No medical information shall be kept outside the medical file. Medical file contents should include, but are not limited to:

- (a) Materials relating to the Family and Medical Leave Act (FMLA) or other medical leaves of absence.
- (b) Documents relating to workers' compensation claims or receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal an employee's medical condition.
- (e) Any other documents or material that reveal the employee's medical history or medical condition, including past, present or anticipated mental, psychological or physical limitations.

1013.5 CONFIDENTIALITY OF ALL PERSONNEL FILES

Personnel files are private and confidential and may be exempt from disclosure. A request to release, inspect or copy a personnel record shall be forwarded to legal counsel for review and a decision regarding the action to be taken (Wis. Stat. § 19.36(10)).

1013.6 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any data contained in any personnel record will be considered. Any employee receiving a request for disclosure of personnel files shall promptly notify the custodian of records (Wis. Stat. § 19.31 et seq.).

The custodian of records shall ensure that an appropriate response to the request is made in a timely manner, in accordance with applicable law. In many cases, this will require the assistance of approved and available legal counsel.

All requests for disclosure that result in access to an employee's personnel data, shall be logged in the corresponding file and the affected employee will be notified in writing prior to access and within three days after making the decision to permit access (Wis. Stat. § 19.356(2)(a)).

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1013.6.1 RELEASE OF CONFIDENTIAL INFORMATION

No employee of this department may disclose private or confidential data without the written consent of the affected employee or written authorization of the Chief of Police or the authorized designee except as provided by this policy, pursuant to lawful process and pursuant to state law or court order.

1013.7 EMPLOYEE ACCESS TO HIS/HER OWN FILE

Upon request, an employee may review his/her personnel file up to two times each calendar year, unless otherwise provided in the collective bargaining agreement (Wis. Stat. § 103.13(2)).

Employees may be restricted from accessing files containing any information that includes (Wis. Stat. § 103.13(6)):

- (a) Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation, pending final disposition or notice to the employee of the intent to discipline.
- (b) Confidential portions of Internal Affairs files that have not been sustained against the employee.
- (c) Criminal investigations involving the employee.
- (d) Letters of reference concerning employment, licensing or issuance of permits regarding the employee.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the employer for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for the employer's planning purposes.
- (g) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the employer and the employee which may be discovered in a judicial proceeding.